Min the Sapreme Court of the Hawaiian Islands--In Banco. In Admiralty. July Term. 1887.

. W. Macfarlane & Co. vs. the Bark "CEBASTES,"

An Appeal from Decison, Judd C. J. JUDDICA., M'CULLY, PRESTON AND BICKERTON JA. FORNANDER J. ABSENT. Opinion of the Court by PRESTON J.

\$514.18 for damages alleged to have been sustained by the libellants, who are the owners of certain iron shipped on board the German bark "Cerastes," at Liverpool, for Honolulu, in consequence of such iron having become rusted on the voyage, from alleged improper stowage.

The bill of lading is in the usual form, and contains this exception. "not accountable for * * * rust, except from improper stowage."

From the evidence, it appears that about two thirds of the iron was damaged by rust, and was depreciated in value to the extent of ten per cent as testified by Mr. Kennedy, of the Honolulu Iron Works, and to the extent of three-eights of a cent per pound, as testified to by other witnesses for the libellants.

There was also evidence on the part of the libellants, tending to show that the rust was caused by the improper stowage of coal, (part of the cargo).

The Chief Justice gave a judgment in favor of the libellants, and assessed the damages at twenty-five per cent upon the value of two-thirds of the

the total value of the iron was 127.28, and the damages so assessed amount to \$571.25, being more than the libellants claimed. The master of the vessel, acting for

the owners appealed. The libellants filed a remission of

damages beyond \$541.18. By THE COURT:-We are of opinion the finding of the Chief Justice, that the injury by rust, to the iron was caused by improper stowage. But we think the amount awarded as dam ages, was on the evidence excessive.

We adopt the estimate of the libellant's witness, Mr. Kennedy, of ten per cent, and order the amount awarded to be reduced accordingly, to the sum of two hundred and twenty-eight dollars and fifty cents for which sum the libellants may take judgment.

The appellants, having obtained a substantial reduction of the judgment on the appeal are entitled to the costs thereof, which are ordered to be paid by the libellants.

F. M. Hatch for libellants; Paul Neumann for the vessel. Honolulu, Sept. 15, 1887.

In the Supreme Court of the Hawaiian Islands--In Banco. July Term. 1887-

Wenner & Co. vs. Thos. Lindsay. Appeal from decision of Bickerton J., sit-

ting as the Intermediary Court on the sland of Oaku.

BEFORE JUDD, C. J., M'CULLY J., PRESTON J. AND DICKERTON J., FORNANDER J. ABSENT. Opinion of the Court by PRESTON J.

This is an action of replevin for a Honolala, Oct. 1, 1886. mediamond ring valued at \$200, and was originally brought in the Police Court AHonolulu, when judgment was ren- Chu Ban Chong & Co., dered for the defendant.

The plaintiff appealed to a Justice of the Supreme Court, and the appeal was heard by Bickerton J., who affirmed the decision of the Court below, holding that "McLaughlin had the right and authority to dispose of, and sell the ring in question." The plain-tiff appealed from this decision on the ground that such finding was erroneous and on other points involved in the findings of the said Justice.

It appears from the testimony of A. Wenner, one of the plaintiffs, that one J. T. McLaughlin, came to the plaintiffs' shop and told plaintiff that he had a customer for plaintiff—and could sell the ring in question for \$300 -that plaintiff gave the ring to Mc-Laughlin and told him to bring \$300. In a few days McLaughlin came and said the ring was sold and he would | Nuuanu Street, bet. King & Hotel Sts. get the money in a few days, he called several times and said the money was all right. McLaughlin was to return the ring in a few days-had he brought plaintiff the \$300-he, the plaintiff, would not have made any enquiry about it.

The defendant, who is a watchmaker and jeweller, in Honolulu, purchased the ring from McLaughlin, in good faith, and exposed it for sale in his window, where it was seen and de manded by plaintiff.

At the hearing before us it was con-tended that McLaughlin was merely a bailee of the ring for the plaintiff and had no power to dispose of it to the defendant, or that at most he was a special agent for the plaintiff to sell the ring at a certain price and that the defendant was bound to ascertain the terms of the agency or take the risk of having the sale avoided by the plaintiff—that the mere possession of the ring and sale thereof, gave no title to the defendant as against the true

We are of opinion that although a person intrusted simply with the posperson intrusted simply with the possession of personal property, with no SUPPLIED ON SHORT NOTICE power to sell or pass title, cannot give title to the property even to a bonn fide purchaser for value. Yet we agree with the learned Judge, who heard the case on appeal, that McLaughlin had the right and authority to sell the ring in question, and therefore confirm his

decision. The appeal is dismissed with costs. W. A. Kinney for plaintiff; Ashford & Ashford for defendant. Honolulu, August 22d, 1887

Stanley has been heard from. He was proceeding up the Aruwimi on July 12th.

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-OF BERLIN-

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6-Revenue Fire Branch 1,298,353
7-Revenue Life & Annuity Branches 558,671

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